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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
David KAMINSKY et al.	:	Confirmation Number: 1392
	:	
Application No.: 10/635,587	:	Group Art Unit: 2456
	:	
Filed: August 6, 2003	:	Examiner: T. Najee-Ullah
	:	
For: AUTONOMIC ASSISTANCE FOR POLICY GENERATION	:	

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed January 28, 2009, wherein Appellants appeal from the Examiner's rejection of claims 1-10.

I. REAL PARTY IN INTEREST

This application is assigned to IBM Corporation by assignment recorded on August 6, 2003, at Reel 014383, Frame 0273.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals and interferences.

III. STATUS OF CLAIMS

Claims 1-20 are pending and three-times rejected in this Application. It is from the multiple rejections of claims 1-20 that this Appeal is taken.

IV. STATUS OF AMENDMENTS

The claims have not been amended subsequent to the imposition of the Third and Final Office Action dated October 28, 2008 (hereinafter the Third Office Action).

V. SUMMARY OF CLAIMED SUBJECT MATTER

1 Referring to Figure 1 and also to independent claim 1, a system for autonomically
2 assisting in the creation of an administrative policy is disclosed. A systems administration
3 component 115 is coupled to a system under study 110. A workflow component 135 is
4 configured for communicative linkage to a plurality of policy makers 140A-140N. The
5 workflow component 135 is configured for routing stimuli and response data 130 from the
6 system under study 110 to a selected one of the policy makers 140A-140N. A policy generation
7 component 125 is coupled to the workflow component 135 and is configured to generate an
8 administrative policy 145 for administering the system under study 110 based upon data
9 collected from the selected one of the policy makers 140A-140N for the stimuli and response
10 data 130.

11 Referring to Figures 2A, 2B and also to independent claim 3, a method for autonomically
12 assisting in the creation of an administrative policy is disclosed. In block 210, a stimuli in a
13 system under study is detected, and in block 220, a response by a systems administrator to the
14 stimuli is monitored (lines 2-4 of paragraph [0023]). In block 240, 260, the stimuli and the

1 response are forwarded to a policy maker suited to analyze the stimuli and the response (lines 6-8
2 of paragraph [0023]; lines 3-4 of paragraph [0024]). In block 280A, the policy maker is queried
3 for a preferred response to the stimuli (lines 1-6 of paragraph [0025]). In block 290, a policy for
4 responding to the stimuli is formulated based upon the preferred response (lines 6-8 of paragraph
5 [0025]).

6 Referring to Figures 2A, 2B and also to independent claim 12, a machine readable
7 storage having stored thereon a computer program for autonomically assisting in the creation of
8 an administrative policy is disclosed. The computer program comprises a routine set of
9 instructions for causing the machine to perform the following steps. In block 210, a stimuli in a
10 system under study is detected, and in block 220, a response by a systems administrator to the
11 stimuli is monitored (lines 2-4 of paragraph [0023]). In block 240, 260, the stimuli and the
12 response are forwarded to a policy maker suited to analyze the stimuli and the response (lines 6-8
13 of paragraph [0023]; lines 3-4 of paragraph [0024]). In block 280A, the policy maker is queried
14 for a preferred response to the stimuli (lines 1-6 of paragraph [0025]). In block 290, a policy for
15 responding to the stimuli is formulated based upon the preferred response (lines 6-8 of paragraph
16 [0025]).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-20 were rejected under 35 U.S.C. § 103 for obviousness based upon Gai et al., U.S. Patent No. 6,167,445 (hereinafter Gai) in view of Rogers et al., U.S. Patent No. 5,557,747 (hereinafter Rogers).

VII. ARGUMENT

**THE REJECTION OF CLAIMS 1-20 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED
UPON GAI IN VIEW OF ROGERS**

For convenience of the Honorable Board in addressing the rejections, claim 2 stands or falls together with independent claim 1; and claims 4-20 stand or fall together with independent claim 3.

As is evident from Appellants' previously-presented comments during prosecution of the present Application and from Appellants' comments below, there are questions as to how the limitations in the claims correspond to features in the applied prior art. In this regard, reference is made to M.P.E.P. § 1207.02, entitled "Contents of Examiner's Answer." Specifically, the following is stated:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

...

(9)(c) For each rejection under 35 U.S.C. 102 or 103 where there are questions as to how limitations in the claims correspond to features in the prior art even after the examiner complies with the requirements of paragraphs (c) and (d) of this section, the examiner must compare at least one of the rejected claims feature by feature with the prior art relied on in the rejection. The comparison must align the language of the claim side-by-side with a reference to the specific page, line number, drawing reference number, and quotation from the prior art, as appropriate. (emphasis added)

Therefore, if the Examiner is to maintain the present rejections and intends to file an Examiner's Answer, the Examiner is required to include the aforementioned section in the Examiner's Answer.

Appellants have compared the statement of the rejection found on pages 2-8 of the Second Office Action with the statement of the rejection found on pages 5-11 of the Third Office

Action. Upon making this comparison, Appellants have been unable to discover any substantial differences between the respective statements of the rejection. As such, Appellants proceed on the basis that the Examiner's sole response to the arguments presented in Appellants' Second Response dated July 21, 2008 (hereinafter the Second Amendment) is found on pages 3-5 of the Third Office Action in the section entitled "Response to Arguments."

On October 10, 2007, the Patent Office issued the "Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*," 73 Fed. Reg. 57,526 (2007) (hereinafter the Examination Guidelines). Section III is entitled "Rationales To Support Rejections Under 35 U.S.C. 103." Within this section is the following quote from the Supreme Court: "rejections on obviousness grounds cannot be sustained by merely conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Referring to the first column on page 57,529 of the Examination Guidelines for Determining Obviousness, the following is a list of rationales that may be used to support a finding of obviousness under 35 U.S.C. § 103:

(A) Combining prior art elements according to known methods to yield predictable results;

(B) Simple substitution of one known element for another to obtain predictable results;

(C) Use of known technique to improve similar devices (methods, or products) in the same way;

(D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;

(E) "Obvious to try" - choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;

(F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;

(G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Upon reviewing the Examiner's analysis on pages 6 and 7 of the Third Office Action, the Examiner appears to be employing rationale (G). If the Examiner is not relying upon rationale (G), Appellants request that the Examiner clearly identify the rationale, as described in the Examination Guidelines for Determining Obviousness, being employed by the Examiner in rejecting the claims under 35 U.S.C. § 103.

Referring again to rationale (G), as discussed on page 57,534 of the Examination Guidelines, the following findings of fact must be articulated by the Examiner:

(1) a finding that there was some teaching, suggestion, or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;

(2) a finding that there was reasonable expectation of success; and

(3) whatever additional findings based on the *Graham* factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

Referring to the paragraph entitled "Office Personnel as Factfinders" on page 57,527 of the Examination guidelines, the following was stated:

Office personnel fulfill the critical role of factfinder when resolving the *Graham* inquiries. It must be remembered that while the ultimate determination of obviousness is a legal conclusion, the underlying *Graham* inquiries are factual. When making an obviousness rejection, Office personnel must therefore ensure that the written record includes findings of fact concerning the state of the art and the teachings of the references applied. In certain circumstances, it may also be important to include explicit findings as to how a person of ordinary skill would have understood prior art teachings, or what a person of ordinary skill would have known or could have done. Factual findings made by Office personnel are the necessary underpinnings to establish obviousness.

In *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), the Supreme Court set forth the factual inquiries that are to be applied when establishing a background for determining obviousness under 35 U.S.C. 103. These factual inquiries are summarized as follows:

- (A) Determine the scope and content of the prior art;
- (B) Ascertain the differences between the prior art and the claims at issue;
- (C) Resolve the level of ordinary skill in the pertinent art; and
- (D) Evaluate any indicia of nonobviousness.

However, in order to make a proper comparison between the claimed invention and the prior art, the language of the claims must first be properly construed. See *In re Paulsen*, 30 F.3d 1475, 1479 (Fed. Cir. 1994). See also, *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1567-68

(Fed. Cir. 1987) (In making a patentability determination, analysis must begin with the question, "what is the invention claimed?" since "[c]laim interpretation, ... will normally control the remainder of the decisional process.") See Gechter v. Davidson, 116 F.3d 1454, 1460 (Fed. Cir. 1997) (requiring explicit claim construction as to any terms in dispute).

Upon reviewing the Examiner's analysis in view of the requirements discussed above necessary for the Examiner to establish a prima facie case of obviousness, Appellants recognize numerous deficiencies in the Examiner's analysis.

Claim 1

Independent claim 1, in part, recites "a workflow component configured for communicative linkage to a plurality of policy makers." To teach this limitation, the Examiner referred to feature 410 of Fig. 4 of Gai as corresponding to the policy maker. The Examiner's analysis is deficient in at least two respects. First, the Examiner does not identify the alleged "workflow component." Second, the claimed invention refers to a plurality of policy makers. However, the Examiner's cited figure only refers to a single policy translator 410. Thus, the Examiner has failed to establish that Gai teaches the limitations for which the Examiner is relying upon Gai to teach.

The above-presented arguments (incorporated herein) were previously on page 3, lines 5-12 of the Second Response. The Examiner's response to these arguments is found in the second and third full paragraphs on page 3 of the Third Office Action and is reproduced below:

Applicant argues that Gai does not teach a "workflow component." Examiner respectfully disagrees. Per Applicant's specification, a "workflow component" is a component that "can be configured for communicative linkage to one or more policy makers...[and]...include a further configuration for routing stimuli and response data from the system under study to a selected one of the policy makers based upon an affiliation between the selected policy maker and a portion of the system under study" (Applicant's specification as filed, pg. 9, par. 18). Examiner interprets this workflow component to be any communicative linkage between one and more policy makers in a network. Gai teaches a plurality of switches, routers, intermediate devices and other communicative linkages, i.e. workflow component, that function within the policy server (Gai, col. 9, line 61 — col. 10, line 9).

Applicant argues that Gai does not teach a "policy maker." Examiner respectfully disagrees. Gai discloses a policy translator component (fig. 4, 410) which Examiner interprets to be comparable to a policy maker.

As readily apparent from comparing the Examiner's characterization of Appellants' arguments to the arguments actually made by Appellants, the Examiner has mischaracterized what Appellants have argued.

"workflow component"

Regarding the claimed "workflow component," Appellants were previously not in a position to evaluate whether or not Gai teaches the claimed workflow component since the Examiner had failed to specifically identify the alleged teaching within Gai that corresponded to the claimed workflow component. Turning to the Examiner's new analysis, the Examiner asserted that the "Examiner interprets this workflow component to be any communicative linkage between one and more policy makers in a network." The Examiner's provided claim construction is clearly in error.

As both described in the specification and claimed, the workflow component is configured to have a linkage with a plurality of policy makers. Having a linkage to other components, however, is entirely different than being a linkage, which is the Examiner's claim

1 construction. Referring to claim 1,¹ reference number 135 in Fig. 1 and to paragraph [0021] of
2 Appellants' disclosure, the workflow component 135 routes selected ones of the stimuli and
3 responses to policy makers 140A-140N. Thus, the workflow component is not simply a
4 "communication linkage," as construed by the Examiner. Instead, the workflow component is a
5 routing device that routes particular data to particular entities. Thus, the Examiner's analysis is
6 predicated upon an improper claim construction of the term "workflow component," and as a
7 result, the Examiner has failed to identify a feature within Gai that corresponds to the claimed
8 workflow component.

9
10 "a plurality of policy makers"

11 Despite arguing that the claimed invention refers to a plurality of policy makers and the
12 Examiner only cited a single element (i.e., policy translator component 410) to teach the plurality
13 of policy makers, the Examiner's response completely ignores these argued differences. Thus,
14 the Examiner has mischaracterized the scope and content of Gai.

15
16
17 Regarding the claimed "said workflow component comprising a further configuration for
18 routing stimuli and response data from said system under study to a selected one of said policy
19 makers," the Examiner again failed to specifically identify the claimed workflow component.
20 Moreover, the Examiner's analysis fails to establish that Gai teaches that "stimuli and response
21 data" is routed to "a selected one of said policy makers."

22

¹ Claim 1 specifically recites "workflow component comprising a further configuration for routing stimuli and response data from said system under study to a selected one of said policy makers."

The above-presented arguments (incorporated herein) were previously on page 3, lines 14-18 of the Second Response. The Examiner's response to these arguments is found in the paragraph spanning pages 3 and 4 of the Third Office Action and is reproduced below:

The Applicant's remaining arguments are directed to the Examiner's reliance upon Gai and Rogers to teach stimuli and response data as claimed. Specifically, Applicant rejects Examiner's interpretation of stimuli and response data and how it is collected, detected and monitored. Applicant argues that the combination of Gai and Rogers does not teach stimuli and response data and how it is collected, detected and monitored. Per the Applicant's disclosure, pg. 9, par. 18, **stimuli** is defined as "a particular situation...disk is full, 'backup scheduled'... 'shutdown of database requested'... has arisen giving rise to an uncertainty within the system in respect to how to proceed." **Response** is defined as "a particular course of action is chosen...includ[ing] any course of action taken by the systems administrator in response to the stimuli (Applicant's disclosure, pg. 9, par. 18)." Examples of types of responses are "empty trash", "conduct backup"... "backup database before honoring shutdown request", etc. (Applicant's disclosure, pg. 9, par. 18). While Gai teaches high-level policies and rules generated (Gai, col. 6, lines 19-25), i.e. responses, in response to different network traffic situations and conditions (Gai, col. 6, line 12-19), i.e. stimuli, Gai does not explicitly teach the examples of stimuli and response presented in the Applicant's disclosure on pg. 9, par. 18. Examiner relies upon Rogers to teach this aspect of the invention.

Yet again, the Examiner mischaracterizes Appellants' prior arguments and presents a response that is not germane to the issues previously raised by Appellants.

To be clear, on page 6, lines 6-8 of the Third Office Action and in the last two lines on page 2 and the first line on page 3 of the Second Office Action, the Examiner asserted that Gai teaches "said workflow component comprising a further configuration for routing stimuli and response data from said system under study to a selected one of said policy makers." Appellants' argument is that the Examiner has failed to establish that Gai teaches that "stimuli and response data" is routed to "a selected one of said policy makers." Instead of address this issue, the Examiner's "response" proceeds to present a claim construction for the terms "stimuli" and "response" while concluding that the "Examiner relies upon Rogers to teach this aspect of the invention." Thus, the Examiner's alleged response is entirely unresponsive to the actual arguments presented by Appellants.

1
2
3 Regarding the claimed "a policy generation component coupled to said workflow
4 component and configured to generate an administrative policy for administering said system
5 under study based upon data collected from said selected one of said policy makers for said
6 stimuli and response data," the Examiner cited column 6, lines 12-17 of Gai. However, Gai does
7 not teach generating an administrative policy based upon collected data. Instead, Gai teaches
8 using high-level policies, which are selected by a network administrator and translated by one or
9 more policy servers into a set of rules (see column 5, line 66 through column 6, line 2). Thus,
10 the Examiner has yet again failed to establish that Gai teaches the limitations for which the
11 Examiner is relying upon Gai to teach.

12
13 The above-presented arguments (incorporated herein) were previously on page 3, line 20
14 through page 4, line 7 of the Second Response. The Examiner has not addressed these
15 arguments in the Third Office Action.

16
17
18 Regarding the teachings of Rogers, Appellants are unclear as how column 2, lines 6-18
19 (i.e., the only passage cited by the Examiner) differs from the teachings already within Gai. Gai
20 already teaches automating an interactive network administration process (see, e.g., column 6,
21 line 58 through column 7, line 29). As such, the Examiner's cited passage within Rogers does
22 not add anything new to the teachings already found within Gai, which the Examiner has already
23 acknowledged does not identically disclose the claimed invention.

The above-presented arguments (incorporated herein) were previously on page 4, lines 9-14 of the Second Response. The Examiner's response to these arguments is found in the paragraph spanning pages 4 and 5 of the Third Office Action and is reproduced below:

In general, Rogers teaches a system which causes operations to be performed in a computer network, i.e. responses (Rogers, col. 4, lines 31-32), based on changes in state, i.e. stimuli (Rogers, col. 24-29), reported to the policy implementation system by monitors (Rogers, col. 4, lines 30-31) interfaced with the network system. Specifically, Rogers discloses a **systems administration component** (Rogers, col. 2, lines 6-9, i.e. systems administration component) **coupled to a system under study** (Rogers, col. 2, lines 10-14). Rogers discloses **stimuli** (Rogers col. 2, lines 17-18; *changing network states as signaled by events monitored within the network, i.e. stimuli*) **and response data** (Rogers col. 2, lines 15-17; *execution of the computer network programs in response to the aforementioned stimuli*) **from said system under study** (Rogers, col. 2, lines 10-14). Rogers 'stimuli are collected and monitored by monitors which detect an event then signal the action interface to initiate the appropriate response (Rogers, col. 5, line 45 — col. 6, line 12). (bold and italics in original; underline added)

At the outset, Appellants note that the non-underlined portions of the above-reproduced passage is identical to the Examiner's analysis previously presented in the paragraph spanning pages 6 and 6 of the Third Office Action and on the bottom of page 3 of the Second office Action. As such, the underlined portions represent the Examiner's new analysis.

As previously noted by Appellants, Rogers teaches an interactive network administration system. As described by the Examiner, this system automatically initiates a particular response based upon a particular stimuli. However, as already pointed out by Appellants, this is what Gai teaches in column 6, line 58 through column 7, line 29 (e.g., "the policy server also defines a plurality of behavioral rules that basically instruct the intermediate devices how to manage data traffic"). As such, Appellants are still unclear as to what the Examiner is alleging that Rogers teaches that Gai does not already teach. If Rogers does not add anything new to the teachings already found within Gai, and Gai does not identically disclose the claimed invention, then the combination of Rogers and Gai would not render, as obvious, all of the claimed limitations.

Regarding the Examiner's obviousness analysis, the Examiner stated in the paragraph spanning pages 3 and 4 of the Second Office Action (and in the first full paragraph on page 7 of the Third Office Action) the following:

Gai and Rogers are analogous art because they are from the same field of endeavor of computer networks and policy. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Roger's elements with Gai's system. The suggestion/motivation would be to provide a mechanism for automating the network administration process (Rogers, col. 2, lines 6-9).

Appellants respectfully submit that the Examiner's obviousness analysis is deficient in several respects.

As to the Examiner's assertion of "suggestion/motivation," the Examiner appears to be employing the "Teaching, Suggestion, or Motivation in the Prior Art" rationale described in the Examination Guidelines for Determining Obviousness as rationale G. The findings of act that must be articulated by the Examiner have already been reproduced above. However, the Examiner's analysis is both silent as to precisely how one having ordinary skill in the art would modify Gai in view of Rogers. Moreover, the Examiner has failed to make any factual findings that there was a reasonable expectation of success in such a combination.

Appellants also note that the Examiner's alleged benefit for the rationale (i.e., for automating the network administration process) would not have motivated one having ordinary skill in the art to make the proposed modifications. Specifically, the Examiner's alleged problem to be solved is has already by accomplished by Gai. Since the problem has already been solved,

one having ordinary skill in the art would not have been realistically impelled to make the Examiner's proposed modification.²

The above-presented arguments (incorporated herein) were previously on page 3, line 20 through page 4, line 17 through page 6, line 2 of the Second Response. The Examiner has not addressed these arguments in the Third Office Action.

Claim 3

To teach the claimed "detecting a stimuli in a system under study and monitoring a response by a systems administrator to said stimuli," the Examiner cited column 9, lines 51-55 and column 12, lines 1-5. The Examiner's cited passage of column 9, lines 51-55 is completely silent as to detecting a stimuli in a system under study and monitoring a response by a systems administrator to the stimuli, as claimed. Instead, this passage refers to implementing a high-level traffic management policy to dissimilar intermediate devices in a network. The Examiner's second cited passage of column 12, lines 1-5 also fails to identically disclose this limitation. Although this passage refers to traffic types (presumably allegedly corresponding to the claimed "stimuli"), this passage is silent as to monitoring a response to a systems administrator to the stimuli.

Although the above-reproduced arguments were previously presented on page 4 of the First Response dated March 5, 2008, the Examiner failed to respond to these arguments. In this regard, the reference is made to M.P.E.P. § 707.07(f), entitled "Answer All Material Traversed,"

² See the non-precedential opinion of *Ex parte Rinkevich*, Appeal 2007-1317 ("we conclude that a person of ordinary skill in the art *having common sense* at the time of the invention would not have reasonably looked to Wu to solve a problem already solved by Savill") (emphasis in original).

which clearly states that upon Appellants traversing the Examiner's rejection, "the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." Moreover, M.P.E.P. § 707.07(f) also states that even if the arguments are moot in view of the new ground(s) of rejection, the "examiner must, however, address any arguments presented by the applicant which are still relevant to any references being applied" (emphasis added). Since these arguments are still relevant to Gai, the Examiner has failed to follow the specific directions of the M.P.E.P. in this matter.

To teach the claimed "forwarding said stimuli and said response to a policy maker suited to analyze said stimuli and said response," the Examiner cited column 9, lines 55-57. The Examiner's cited passage, however, refers to a policy and not a stimuli and response by a systems administrator to the stimuli, as claimed. Moreover, the Examiner's cited passage fails to disclose that the stimuli/response data is forwarded to a policy maker suited to analyze the data. Again, despite these arguments being previously presented in the First Response, the Examiner did not respond to them.

To teach the claimed "querying said policy maker for a preferred response to said stimuli," the Examiner cited column 7, lines 10-19. The Examiner's cited passage, however, refers to exchange of messages between an intermediate device and a policy server but is silent as to querying a policy maker for a preferred response to the stimuli. In this regard, the Examiner's cited passage is completely silent as to the stimuli. Despite these arguments being previously presented in the First Response, the Examiner did not respond to them.

1 To teach the claimed "formulating a policy for responding to said stimuli based upon said
2 preferred response," the Examiner cited column 7, lines 21-24. Again, the Examiner's cited
3 passage is completely silent as to the stimuli, upon which the policy is formulated. Despite these
4 arguments being previously presented in the First Response, the Examiner did not respond to
5 them.

6
7 The Examiner's analysis regarding Rogers is inconsistent with the Examiner's previously-
8 stated assertions. For example, the Examiner asserts that Gai teaches "monitoring a response by
9 a systems administrator to said stimuli" on page 4 of the Second Office Action, but on page 5 of
10 the Second Office Action, the Examiner is relying upon Rogers to teach this limitation. The
11 Examiner makes the same ambiguous assertions as to other limitations on pages 4 and 5 of the
12 Second Office Action.

13
14 Notwithstanding the Examiner's failure to properly characterize the scope and content of
15 the applied prior art, Appellants incorporate herein, as applying to claim 3, the arguments
16 previously presented as to claim 1 regarding the Examiner's citation to Rogers and the
17 Examiner's obviousness analysis.

18
19 Examiner's Response to Appellants' prior arguments as to claim 3

20 The above-reproduced arguments (incorporated herein) were previously presented on
21 page 6, line 5 through page 8, line 14. The Examiner, however, has completely ignored all of the
22 above-reproduced arguments in the Third Office Action. Additionally, as alluded to above, not
23 only has the Examiner ignored these arguments in the Third Office Action, the Examiner ignored

many of these arguments in the Second Office Action.

Conclusion

Based upon the foregoing, Appellants respectfully submit that the Examiner's rejection under 35 U.S.C. § 103 based upon the applied prior art is not viable. Appellants, therefore, respectfully solicit the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: April 28, 2009

Respectfully submitted,

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CUSTOMER NUMBER 46320

VIII. CLAIMS APPENDIX

1. A system for autonomically assisting in the creation of an administrative policy comprising:

a systems administration component coupled to a system under study;

a workflow component configured for communicative linkage to a plurality of policy makers, said workflow component comprising a further configuration for routing stimuli and response data from said system under study to a selected one of said policy makers; and,

a policy generation component coupled to said workflow component and configured to generate an administrative policy for administering said system under study based upon data collected from said selected one of said policy makers for said stimuli and response data.

2. The system of claim 1, further comprising a data store of stimuli and responses in said system under study.

3. A method for autonomically assisting in the creation of an administrative policy comprising:

detecting a stimuli in a system under study and monitoring a response by a systems administrator to said stimuli;

forwarding said stimuli and said response to a policy maker suited to analyze said stimuli and said response;

querying said policy maker for a preferred response to said stimuli; and,

formulating a policy for responding to said stimuli based upon said preferred response.

4. The method of claim 3, further comprising the step of enforcing said policy in managing said system under study.

5. The method of claim 3, further comprising the step of forwarding said policy to said systems administrator.

6. The method of claim 3, further comprising the step of storing said stimuli and response in a data store for subsequent analysis.

7. The method of claim 3, further comprising the steps of:
monitoring the performance of said system under study in respect to said policy; and,
reporting said monitored performance to at least one of said systems administrator and said policy maker.

8. The method of claim 3, where said forwarding step comprises the steps of:
identifying a policy maker among a plurality of policy makers, said identified policy maker having an association with at least one of said system under study, said stimuli and said response; and,
routing said stimuli and response to said identified policy maker.

9. The method of claim 3, where said forwarding step comprises the steps of:

identifying a policy maker among a plurality of policy makers, said identified policy maker having knowledge of another policy maker among said plurality of policy makers, said another policy maker having an association with at least one of said system under study, said stimuli and said response; and,

routing said stimuli and response to said identified policy maker, said identified policy maker further routing said stimuli and response to said another policy maker.

10. The method of claim 3, wherein said querying step further comprises the step of querying said policy maker for at least one of an identity of a related stimuli, an identity of a related response, and an identity of a related system to which said policy can apply.

11. The method of claim 10, wherein the formulating step further comprises formulating said policy additionally based upon said at least one of said identity of said related stimuli, said identity of said related response, and said identity of said related system to which said policy can apply.

12. A machine readable storage having stored thereon a computer program for autonomically assisting in the creation of an administrative policy, the computer program comprising a routine set of instructions for causing the machine to perform the steps of:

detecting a stimuli in a system under study and monitoring a response by a systems administrator to said stimuli;

forwarding said stimuli and said response to a policy maker suited to analyze said stimuli and said response;

querying said policy maker for a preferred response to said stimuli; and,
formulating a policy for responding to said stimuli based upon said preferred response.

13. The machine readable storage of claim 12, further comprising the step of enforcing said policy in managing said system under study.

14. The machine readable storage of claim 12, further comprising the step of forwarding said policy to said systems administrator.

15. The machine readable storage of claim 12, further comprising the step of storing said stimuli and response in a data store for subsequent analysis.

16. The machine readable storage of claim 12, further comprising the steps of:
monitoring the performance of said system under study in respect to said policy; and,
reporting said monitored performance to at least one of said systems administrator and said policy maker.

17. The machine readable storage of claim 12, where said forwarding step comprises the steps of:

identifying a policy maker among a plurality of policy makers, said identified policy maker having an association with at least one of said system under study, said stimuli and said response; and,
routing said stimuli and response to said identified policy maker.

18. The machine readable storage of claim 12, where said forwarding step comprises the steps of:

identifying a policy maker among a plurality of policy makers, said identified policy maker having knowledge of another policy maker among said plurality of policy makers, said another policy maker having an association with at least one of said system under study, said stimuli and said response; and,

routing said stimuli and response to said identified policy maker, said identified policy maker further routing said stimuli and response to said another policy maker.

19. The machine readable storage of claim 12, wherein said querying step further comprises the step of querying said policy maker for at least one of an identity of a related stimuli, an identity of a related response, and an identity of a related system to which said policy can apply.

20. The machine readable storage of claim 19, wherein the formulating step further comprises formulating said policy additionally based upon said at least one of said identity of said related stimuli, said identity of said related response, and said identity of said related system to which said policy can apply.

IX. EVIDENCE APPENDIX

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellants in this Appeal, and thus no evidence is attached hereto.

X. RELATED PROCEEDINGS APPENDIX

Since Appellants are unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.